

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6560

BILL NUMBER: SB 340

NOTE PREPARED: Feb 23, 2010

BILL AMENDED: Feb 22, 2010

SUBJECT: Parole Board Duties, Community Corrections, and Bail.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR: Rep. L. Lawson

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Community Investigations* – It makes conducting a community investigation by the parole board mandatory for certain individuals.
- B. *Standard Period of Parole Reduced* – It reduces the standard period of parole from two years to one year unless the parolee: (1) is a repeat parolee; (2) is being placed on parole for a conviction for a crime of violence; (3) is a sex offender; or (4) has violated a Department of Correction (DOC) rule in the six months prior to release.
- C. *Conduct Adjustment Procedures* – It provides that DOC rules concerning the maintenance of order and discipline among committed persons applies to persons placed in a community corrections program or assigned to a community transition program.
- D. *Chargebacks* – It repeals a provision that requires a county that receives a grant from the department commissioner for the establishment and operation of a community corrections program to be charged a sum for certain persons committed to the department and confined in a state correctional facility.
- E. *Best Practices* – It requires that a community corrections plan must include a method to evaluate each component of the program to determine the overall use of department-approved best practices for the program. It provides that the department must require community corrections programs to submit an evaluation of the use of department-approved best practices for community correction program components in proposed budget requests.
- F. *Home Detention* – It provides that, for the purposes of the law concerning home detention, a home includes the residence of another person who is not part of the social unit formed by an offender's immediate family.
- G. *Direct Placement of Offenders* – It establishes certain standards and criteria for direct placement of offenders in community corrections programs. It specifies that, for purposes of the law concerning

direct placement in community corrections programs: (1) "home" means the actual living area of the temporary or permanent residence of a person; and (2) a person who is placed in a community corrections program under the law is entitled to earn credit time. Allows a person to be deprived of credit time for violating a rule or condition of a community corrections program.

- H. It makes changes to the Indiana bail law concerning: (1) notices to sureties and bond agents; and (2) failure to appear.
- I. It requires the Sentencing Policy Study Committee to study and make recommendations regarding whether individuals on parole should be eligible to receive credit time to potentially shorten their period of parole.
- J. It removes a requirement that courts include the costs of incarceration in a sentencing order.
- K. It provides that the parole board shall require certain parolees to wear monitoring device if the Department of Correction determines that sufficient funding is available.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Charge-Backs*- Charge-backs were a method used by the Department of Correction to penalize counties with community corrections grants and who did not admit a minimal number of nonviolent felons. DOC has not used the formula in statute for penalizing community corrections counties in at least the last ten years.

(Revised) *Community Investigations* – The Parole Board would be required to produce community investigation reports on about 26% of the offenders in DOC who were released on parole in 2009 based on this proposal. Under current law, community investigations are prepared by the parole field agents when the Parole Board is considering the release on parole. As proposed, the parole board would be required to conduct a community investigation report if the person (1) is not being placed on parole for the first time, (2) was convicted of a crime of violence, (3) is a sex offender, or (4) in the previous six months before being considered for parole, violated a rule of the penal facility in which the person was imprisoned.

Under current law, the Parole Board is required to have a community investigation report produced before considering whether to admit the offender to parole. According to the Parole Board, these community investigation reports generally take between 6 and 12 months to complete. If these offenders can be released sooner, the number of available beds in the Department of Correction (DOC) may increase. Currently, DOC's adult male facilities operate at almost 100% capacity.

The following table shows the number of offenders who were released in CY 2009 to parole and might not need to have a community report produced prior to release on parole.

Offenders Released on Parole in CY 2009					
Credit Class 1 and Sex Offender	Credit Class 1 and Crime Against Person	Credit Class 2 or 3	New Crime on Parole Not Sex Offense or Violent	No Report Needed	Total
637	1,771	139	14	7,107	9,668
6.6%	18.3%	1.4%	0.1%	73.5%	100.0%

Reduced Length of Time on Parole – Under current law, sex offenders who are released from DOC facilities are required to remain on parole for ten years and sexually violent offenders are required to remain on parole for the rest of their lives. Offenders who are not sex offenders or sexually violent offenders are required to be on parole for two years. As proposed, the length of time that these offenders (who are neither sex offenders or sexually violent offenders) would be on parole is one year.

In CY 2008, there were 2,631 offenders with no prior commitment in DOC facilities and were committed for neither a sex or violent offense who were released and could be eligible to be released from parole in one year. Reducing the number of offenders on parole would reduce the need for additional parole officers. In December 2009, there were 150 parole agents and supervisors.

Credit Time and Conduct Adjustment Procedures – By explicitly allowing credit time, community corrections administrators can apply more sanctions at the local level and allow the local programs to avoid returning the offender to DOC. In practice, some offenders are earning credit time when they are in community corrections programs. If IC 11-11-5 applies to offenders in community corrections, community transition, and parole in this statute, then administrators would have the clear ability to take away credit time.

Best Practices – "Best Practices" or "Evidence-Based Practices" are programs and principles that correctional professionals have evaluated and concluded are effective in treating offenders in community-based programs and facilities.

Definition of Home Detention – Changing the definition of home (IC 35-38-2.5-2) will expand a court's options to place more offenders on home detention by including friends and people in common law relationships. In September 2008, 2,570 offenders were on home detention.

Home Detention and Electronic Monitoring – Community corrections administrators report that the standards that exist for supervision methods, treatment, and education programs and use of technology are higher for community corrections programs than they are for private contractors. This would make both contractors and community corrections staff comply with the same standards. There are 74 community corrections agencies.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) *Including the Costs of Incarceration in a Sentencing Order* – There would be a minimum effect on court operations. Reportedly, there are few courts who are currently including this information in the sentencing order.

Indiana Bail Law – LSA expects this portion of the bill to have a minimal effect on local court operations. However, no published data exists which shows the percentage of criminal cases that this bill could affect.

Failure to Appear When Defendant Is Released Under Notices to Sureties and Bond Agents – Current law has no time table for when the clerk is required to mail a notice to the surety agent that a defendant, under the supervision of the surety agent, has failed to appear in court. As proposed, the clerk of the court would be required to mail a notice to the bail bond agent within 30 days of the court noting that the defendant failed to appear.

LSA found no published statewide information reporting the number of cases when a defendant failed to appear in court. Furthermore, it is not known whether clerks currently mail out these failure-to-appear notices within 30 days. Assuming that no county mails these notices out within 30 days, the following published

information is used to illustrate this provision's possible effect on each county:

- The felony and misdemeanor filings in 2008 for all 92 counties from the *Indiana Judicial Report*.
- Statistics on the percentage of pretrial releases from the Bureau of Justice Statistics (BJS) that were reported from the 75 largest counties in the United States.

BJS reports that 33% of all criminal defendants in the counties reporting were released from jail on a surety bond prior to their court hearings and that 29% either were rearrested, failed to appear, or were fugitives. The estimated defendants who violated bond were divided by 52 to represent the potential number of cases each county could handle each week in which a criminal defendant violates conditions of their surety bond in court.

The following table shows the weekly number of failure-to-appear notices distributed in all 92 counties. On average, the courts in 90 counties will presumably mail 25 or less notices each week within 30 days. Counties with more average weekly filings would more likely be affected by this requirement if they do not have adequate staff and office equipment.

Estimated Defendants Who Fail to Appear Each Week	Number of Counties	Cumulative
5 or less	72	72
More than 5 or equal to 10	8	80
More than 10 or equal to 20	7	87
More than 20 or equal to 25	3	90
46 per week	1	91
85 per week	1	92

Failure to Appear After Posting a Cash Bond – Under current law, when a defendant fails to appear in court for any reason after being admitted to bail on a cash bond with the clerk of the circuit court, the court is required to issue a warrant for the defendant's arrest. If a civil action has been filed by the victim of the crime, the cash deposit will not be forfeited until the court has entered a final judgment against the defendant.

As proposed, if the final judgment in a civil suit has been entered, the court is required to declare the bond forfeited no earlier than 120 days after the defendant has failed to appear in court. LSA found no published data that shows the length of time that courts currently take to forfeit these bonds in Indiana.

Definitions:

Cash bond – The defendant deposits a percentage (usually 10%) of the full bail amount with the court. This percentage of the bail is returned after the disposition of the case, but the court often retains a small portion for administrative costs. Defendants failing to appear in court are liable to the court for the full amount of the bail. (IC 35-33-8-3.2(a)(2))

Surety bond – A bail bond company signs a promissory note to the court for the full bail amount and charges the defendant a fee for the service (usually 10% of the full bail amount). If the defendant fails to appear, the

bond company is liable to the court for the full bail amount. Frequently, the bond company requires the defendant to post collateral in addition to the fee. (IC 35-33-8-3.2(a)(1)(B))

Explanation of Local Revenues:

State Agencies Affected: DOC; Indiana Parole Board.

Local Agencies Affected: Community corrections agencies.

Information Sources: Greg Server, Chairman of the Indiana Parole Board; DOC Offender Information System.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.